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	SP-00	STR-00	TRSE-00	USIE-00	PMB-00	DSCC-00	PRM-01
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C O N F I D E N T I A L SECTION 01 OF 02 HARARE 002548

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SUBJECT: ZIMBABWEAN GOVERNMENT REMAKING JUDICIARY IN ITS OWN IMAGE

REF: A) HARARE 2345 B) HARARE 1679

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CLASSIFIED BY POLITICAL SECTION CHIEF MATT HARRINGTON. REASONS:
1.5 (B) AND (D).

SUMMARY

1. (C) ZANU-PF IS PROCEEDING IN ITS CAMPAIGN TO FORCE INDEPENDENT-MINDED JUDGES OFF THE BENCH AND REPLACE THEM WITH SYMPATHETIC OR PLIANT JURISTS, ACCORDING TO A CURRENT MEMBER OF THE HIGH COURT BENCH. THE CENTRAL INTELLIGENCE ORGANIZATION (CIO) IS REPORTEDLY WATCHING CERTAIN JUDGES VERY CLOSELY, INCLUDING CONDUCTING PHYSICAL SURVEILLANCE, TAPPING THEIR PHONES, AND OPENING THEIR MAIL. THREE HIGH COURT JUDGES HAVE RESIGNED SUDDENLY OVER THE PAST SEVERAL MONTHS, FED UP WITH THE ONGOING INTIMIDATION, AND A FOURTH IS LIKELY TO FOLLOW SOON. OUR INTERLOCUTOR ECHOED CONVENTIONAL LOCAL WISDOM IN INSISTING THAT PRESIDENT MUGABE WOULD DO "WHATEVER IS NECESSARY TO REMAIN IN POWER" BEYOND THE PRESIDENTIAL ELECTION, AND HE URGED THE INTERNATIONAL COMMUNITY TO BEGIN THINKING ABOUT HOW IT WILL RESPOND TO AN ILLEGITIMATE ELECTION OUTCOME. END SUMMARY.

REMAKING THE JUDICIARY

2. (C) HIGH COURT JUDGE YUNUS OMERJEE (STRICTLY PROTECT THROUGHOUT) TOLD POLITICAL SECTION CHIEF ON AUGUST 27 THAT PRESIDENT MUGABE AND HIS ADVISORS HAVE SUCCEEDED IN "SHAPING THE JUDICIARY IN THEIR OWN IMAGE," AND SAID THE MASTERMIND BEHIND THIS EFFORT IS JUSTICE MINISTER PATRICK CHINAMASA. THE GOZ NOW HAS IN PLACE A RELIABLY LOYAL CHIEF JUSTICE, GODFREY CHIDYAUZIKU, WHO WAS
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SWORN IN ON AUGUST 20. OMERJEE DESCRIBED HIM AS A "RABID PARTY MAN THROUGH AND THROUGH" WHO OWES EVERYTHING HE HAS AND HAS BECOME TO ZANU-PF. ACCORDING TO THE HIGH COURT JUDGE, CHIDYAUZIKU IS NOW ASSEMBLING AN "A-TEAM" TO HEAR CASES OF PARTICULAR IMPORTANCE TO THE EXECUTIVE BRANCH. OMERJEE SAID THAT, IN ADDITION TO CHIDYAUZIKU, THE THREE RECENT APPOINTEES TO THE SUPREME COURT -- MISHECK CHEDA, LUKE MALABA, AND VERNANDA ZIYAMBI (REF A) -- AND JUSTICE IBRAHIM WOULD LIKELY COMPRISE THE A-TEAM EITHER BECAUSE THEY ARE CONSIDERED SYMPATHETIC TO ZANU-PF, OR ARE PLIANT. OMERJEE NOTED THAT CASES INVOLVING CONSTITUTIONAL QUESTIONS MUST BE HEARD BY FIVE JUSTICES, AND THAT MAJORITY OPINIONS REQUIRE THE VOTES OF ONLY THREE. POLITICAL SECTION CHIEF POINTED OUT THAT CHEDA HAS BEEN CRITICAL OF CHIDYAUZIKU IN THE PAST AND ASKED WHY THE GOZ MIGHT CONSIDER HIM SYMPATHETIC. CHEDA, OMERJEE REPORTED, HAD RECENTLY BEEN ALLOCATED LAND UNDER THE FAST TRACK RESETTLEMENT PROGRAM, AND HIS BROTHER HAD RECENTLY BEEN APPOINTED TO THE HIGH COURT. THE NEW SUPREME COURT JUSTICE, THEREFORE, MIGHT FEEL SOME PRESSURE TO HEW TO THE GOZ LINE.

3. (C) POLITICAL SECTION CHIEF ASKED FOR OMERJEE'S ASSESSMENT OF

THE THREE JUDGES NAMED TO THE HIGH COURT ON AUGUST 20. HE CONFERRED HIGH PRAISE ON NICHOLAS NDOU, AN NDEBELE WHO HAS WORKED AS A MAGISTRATE, PROSECUTOR, AND LAW PROFESSOR, WHOM HE DESCRIBED AS "ABOVE REPROACH." HE WAS LESS ENTHUSIASTIC ABOUT THE OTHER TWO, HOWEVER. MAPHIOS CHEDA, THE BROTHER OF THE NEW SUPREME COURT JUSTICE, COMES FROM PRIVATE PRACTICE. HE IS "VERY MEDIOCRE, GIVEN TO EXCITABILITY, AND POMPOUS," AND IS CLEARLY SYMPATHETIC TO ZANU-PF. ACCORDING TO OMERJEE, BENJAMIN PARADZA IS "OKAY" BUT "COMES WITH A LOT OF BAGGAGE." HE IS A WAR VETERAN AND HAS BEEN A "VERY AVERAGE PERFORMER" DURING HIS YEARS IN PRIVATE PRACTICE.

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PERSONAL SECURITY

14. (C) ASKED WHETHER HE PERSONALLY FELT UNDER THREAT, OMERJEE SAID HE HAS BEEN INFORMED BY RELIABLE SOURCES THAT HIS PHONES ARE TAPPED AND THAT HE AND OTHER JUDGES ARE UNDER CONSTANT PHYSICAL SURVEILLANCE. HE HAS INTENTIONALLY AVOIDED HIRING A SECURITY GUARD FOR HIS RESIDENCE BECAUSE HE ASSUMES THE PERSON WOULD BE ASKED TO KEEP TABS ON HIM, HIS FAMILY, AND THEIR VISITORS. CONVINCED THAT THE CENTRAL INTELLIGENCE ORGANIZATION WAS OPENING HIS MAIL, HE NOW HAS HIS MAIL SENT TO A FRIEND'S HOUSE. OMERJEE SAID THAT THREE OF HIS COLLEAGUES ON THE HIGH COURT -- JAMES DEVITTIE (REF B), MICHAEL GILLESPIE, AND ISMAEL CHATIKOBA -- HAD RESIGNED SUDDENLY DURING THE LAST SEVERAL MONTHS BECAUSE THEY WERE FED UP WITH THE ONGOING HARASSMENT AND INTIMIDATION. A FOURTH, MOSES CHINHONGO, IS TRYING DESPERATELY TO GET OUT, BUT WON'T RESIGN UNTIL HE IS ABLE TO ASSEMBLE A FINANCIAL PACKAGE FOR STUDIES IN AUSTRALIA. OMERJEE SAID HE HAS NO INTEREST IN BECOMING A MARTYR AND IS MAKING CONTINGENCY PLANS TO TAKE HIS FAMILY -- A WIFE AND THREE YOUNG CHILDREN BELOW THE AGE OF NINE -- TO ZAMBIA AND ON TO EUROPE IF THE SITUATION DETERIORATES FURTHER.

ZANU-PF'S ELECTION STRATEGY

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15. (C) OMERJEE DESCRIBED THE RULING PARTY'S PRESIDENTIAL CAMPAIGN
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STRATEGY AS "TOTAL WARFARE" AND SAID "ANYONE WHO STICKS HIS HEAD UP WILL BE STRUCK DOWN." ZANU-PF IS PLAYING A "BRILLIANT" NUMBERS GAME, OMERJEE DECLARED. THE PARTY HAS DECLARED THE RURAL AREAS NO-GO AREAS FOR MDC CAMPAIGNERS AND IS USING ALL AVAILABLE TACTICS TO ENSURE THAT THEIR RURAL SUPPORTERS VOTE ON ELECTION DAY. IN URBAN AREAS, THE PARTY IS TRYING TO DECREASE THE MDC'S SUPPORT THROUGH A COMBINATION OF INTIMIDATION AND BUYING PEOPLE OFF. THE RECENT INAUGURATION OF A COMMUTER TRAIN AND LAUNCHING OF A LOW-COST HOUSING SCHEME IN A HIGH-DENSITY HARARE SUBURB ARE KEY ELEMENTS OF THE URBAN CAMPAIGN, ACCORDING TO OMERJEE. THE OVERARCHING STRATEGY IS TO SECURE THE PARTY'S STRONGHOLD (RURAL AREAS) AND TO CREATE CONFUSION IN THE MDC'S STRONGHOLD (URBAN AREAS).

16. (C) ASKED WHETHER THE FARM INVASIONS DID NOT CONSTITUTE ECONOMIC SUICIDE, OMERJEE AGREED, BUT INSISTED THAT PRESIDENT MUGABE WILL DO "ANYTHING, EVERYTHING," TO STAY IN POWER. MUGABE SIMPLY WILL NOT TOLERATE ANYONE WRESTING POWER FROM HIM, AND THAT

IS THE BOTTOM LINE, OMERJEE ASSERTED. MUGABE AND ZANU-PF, OMERJEE CONTINUED, WON POWER THROUGH VIOLENT MEANS, AND THEY ARE PREPARED TO REVISIT THOSE MEANS IF NECESSARY. ONE UNDERESTIMATED THEIR DETERMINATION TO DO SO AT ONE'S "GRAVE PERIL," OMERJEE WARNED. THAT SAID, MUGABE IS NOT LIKELY TO DECLARE A STATE OF EMERGENCY, BECAUSE SUCH A STEP WOULD CONSTITUTE AN ADMISSION OF GUILT OR WRONGDOING. HOWEVER, HE WILL FIND A WAY TO STAY IN POWER BEYOND THE PRESIDENTIAL ELECTION. OMERJEE URGED THE INTERNATIONAL COMMUNITY TO BEGIN PLANNING NOW HOW IT WILL RESPOND IN THE AFTERMATH OF AN ELECTION THAT HE BELIEVES WILL INEVITABLY BE STOLEN. IN THE MEANTIME, OMERJEE INSISTED THAT THE ONLY ACTION LIKELY TO FORCE MUGABE TO PULL ZIMBABWE BACK FROM THE PRECIPICE IS A SUSTAINED CURTAILING OF FUEL AND ELECTRICITY SUPPLIES. SOUTH
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AFRICA IS CLEARLY KEY IN THIS REGARD, BUT OMERJEE ACKNOWLEDGED THAT PRETORIA IS UNLIKELY TO TAKE SUCH A DRASTIC STEP. OMERJEE REMARKED THAT HE HAS BEGUN TO LOSE HOPE FOR THE FUTURE OF ZIMBABWE.

COMMENT

17. (C) OMERJEE HAS BEEN A RELIABLE AND FRANK INTERLOCUTOR WITH EMBASSY OFFICERS. HE IS BRIGHT, FUNNY, AND OPTIMISTIC BY NATURE, BUT WE WERE STRUCK IN THIS MEETING BY HIS UNCHARACTERISTIC SENSE OF FOREBODING ABOUT THE DIRECTION IN WHICH ZIMBABWE IS HEADING. A FORMER PERMANENT SECRETARY UNDER EMMERSON MNANGAGWA AT THE MINISTRY OF JUSTICE, OMERJEE KNOWS MNANGAGWA AND OTHER SENIOR ZANU-PF FIGURES WELL, SO WE VALUE HIS ASSESSMENTS OF RULING PARTY STRATEGIES AND TACTICS.

18. (C) IT IS TROUBLING, BUT NOT SURPRISING, TO HEAR CONFIRMATION THAT THE GOZ IS CONTINUING ITS CAMPAIGN AGAINST INDEPENDENT-MINDED JURISTS -- ALBEIT MORE QUIETLY THAN IN THE PAST -- AND IS SUCCEEDING IN FORCING A NUMBER OF WELL-RESPECTED JUDGES TO LEAVE THE BENCH. ALTHOUGH WE MUST CONTINUE OUR EFFORTS TO LEVEL THE PLAYING FIELD FOR THE PRESIDENTIAL ELECTION, WE SHARE OMERJEE'S VIEW THAT THE INTERNATIONAL COMMUNITY SHOULD START PLANNING NOW FOR THE DAY AFTER WHAT COULD POSSIBLY EMERGE AS AN ILLEGITIMATE MUGABE VICTORY. MUGABE IS CLEARLY COUNTING THAT, ONCE HE "WINS" ANOTHER SIX-YEAR MANDATE, THE INTERNATIONAL COMMUNITY WILL HAVE NO CHOICE BUT TO DEAL WITH HIM. NEVERTHELESS, WE SHOULD CONTINUE ALL OF OUR EFFORTS TO MAKE IT AS DIFFICULT AS POSSIBLE FOR MUGABE AND ZANU-PF TO STEAL THE ELECTION.

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